

REMARKS

Applicants respectfully request reconsideration in view of the amendments set forth above and the arguments set forth below. Claims 1, 3, 4, 6, 8-12, and 18-25 were pending. With the present Response, Applicants amend Claims 1, 10 and 12 and add new Claims 26-28; therefore, Claims 1, 3, 4, 6, 8-12 and 18-25 remain pending for consideration. Although the Applicants respectfully disagree with the rejections and do not acquiesce, the Applicants have amended the claims in order to expedite prosecution. The Applicants reserve the right to pursue previous versions of all claims in one or more future patent applications.

Drawings

The Office Action objects to the drawings under 37 C.F.R. § 1.83(a) as failing to show every feature of the invention specified in the claims. In particular, the Office Action asserts, “the removable outlet must be shown or the feature(s) canceled from the claim(s).” Office Action, page 2. Applicants respectfully request reconsideration, as the claimed feature is shown at least in FIGs. 9 (reproduced below) and 10. Indeed, the corresponding description in the application’s specification explains, “The cover 205 may be permanently fixed to the mask body (for example, by being welded, clipped or glued to the mask body 201) or may be able to be removed (for example, if the cover 205 was removably clipped to the mask body 201).”

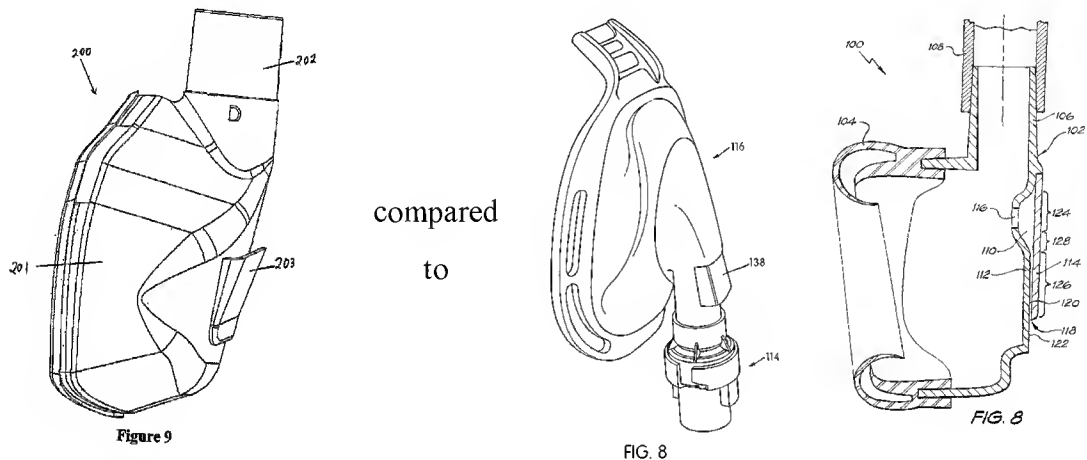
Claim Rejections Under 35 U.S.C. § 103

The Office Action rejects claims 1, 3, 4, 6, 8-12, and 18-25 under 35 U.S.C. § 103(a) as unpatentable over U.S. patent no. 7,066,178 to Gunaratnam et al. in view of U.S. Patent No. 7,089,939 to Walker, et al. Applicants respectfully disagree, as the applied art fails to teach or suggest all of the claim language.

For example, Claim 1 recites (among other things):

1. A device for delivering a supply of gases to a user comprising:
a mask . . . ; and
at least one outlet member . . . wherein a boundary between said outlet member and said mask forms at least one outlet vent that in use passes a substantial portion of expired gases of said user *in an upward direction toward the top of the user’s head*

In contrast, the applied art fails to teach or suggest at least a mask and at least one outlet member wherein a boundary between the outlet member and the mask forms at least one outlet vent that in use passes a substantial portion of expired gases of said user in an upward direction toward the top of the user's head. Indeed, both Gunaratnam and Walker show air venting directed in the opposite direction. For example, see Applicant's FIG. 9 compared to Gunaratnam's FIG. 8 and Walker's FIG. 8 (below)



Applicant's FIG. 9

Walker's FIG. 8

Gunaratnam's FIG. 8

Therefore, for at least these reasons, Claim 1 distinguishes over the applied art. Claims 3, 4, 6, 8, 9, 18-21 depend from Claim 1, and therefore distinguish over the applied art for at least the same reasons. In addition, Claims 3, 4, 6, 8, 9, and 18-21 distinguish over the applied art for the unique combinations of features recited in those claims.

Claims 10 and 12 distinguish over the applied art for similar reasons. For example, Claim 10 recites, among other things, a CPAP system comprising at least one removable outlet member . . . wherein a boundary between the outlet member and the mask forms at least one outlet vent that in use *passes a substantial portion of expired gases of said user in an upward direction toward the top of the user's head*. Claim 12 describes, among other things, a removable outlet member comprising a cover extending over a slot in a mask such that a separation between the mask and said cover increases at a location between the slot and an edge of said cover where the gases exit the outlet vent *in order to diffuse said exhaled gases in an upward direction toward the top of the*

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user's head. Because, the applied art fails to teach or suggest at least these features, Claims 10 and 12 distinguish over the applied art.

Claims 11 and 22-23 depend from Claim 10 and Claims 24-25 depend from Claim 12; therefore, Claims 22-25 distinguish over the applied art for at least the same reasons. In addition, Claims 22-25 distinguish over the applied art for the unique combinations of features recited in those claims.

New Claims 26-28

New Claims 26-28 find support throughout the application as originally filed. For example, at least paragraph [0062] of the application's publication (U.S. Publication No. 2007/0062536) provides support for these claims. Therefore, Applicants believe that no new matter is introduced with these claims.

New Claims 26-28 depend from Claim 1, 10, and 12, respectively; therefore, Claims 26-28 distinguish over the applied art for at least the same reasons recited above. In addition, Claims 26-28 distinguish over the applied art for the unique combinations of features recited in those claims. For example, the applied art fails to anticipate or render obvious an outlet member having a bottom edge shorter than its top edge (see Claim 26), a cover having a width that increases from its bottom edge to its top edge (see Claim 27), or a width of a cover greater at a second edge than at a first edge (see Claim 28).

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not

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reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that this application is in condition for allowance and such action is respectfully requested. If any issues remain or require further clarification, the Examiner is respectfully requested to call Applicants' counsel at the number indicated below in order to resolve such issues promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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